

BEFORE THE CONTRACTORS BOARD

STATE OF IDAHO

In the Matter of the Registration of:)	
)	Case No. CON-2007-77
CAMERON POWELL,)	
Registration No. RCT-18093,)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW AND
Respondent.)	RECOMMENDED ORDER
)	

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Having reviewed the Complaint and other documents in this matter, the Hearing Officer hereby enters the following Findings of Fact, Conclusions of Law, and Recommended Order:

FINDINGS OF FACT

1. Cameron Powell (hereinafter "Respondent") is registered with the Idaho State Contractors Board (hereinafter "Board") under Registration No. RCT-18093 to engage in the practice of contracting.

2. On October 12, 2007, a formal administrative Complaint was filed in this matter with the Board. Said Complaint is expressly incorporated herein and made a part hereof.

3. Copies of the Complaint, along with the Notification of Procedural Rights, were sent to Respondent on October 12, 2007, by means of the United States Mail, postage prepaid, both by certified mail, return receipt requested, and by regular mail. The mailings were addressed to Respondent at his most recent home address on file with the Board, as follows:

Cameron Powell
1438 Cotterell Way
Boise, ID 83709

4. On October 18, 2007, the certified mail mailing was returned to the sending office with the notation that the address for Respondent had changed. On October 24, 2007, copies of the Complaint, along with the Notification of Procedural Rights, were re-

sent to Respondent by United States Mail, postage prepaid, both by certified mail, return receipt requested, and by regular mail. The mailings were addressed to Respondent at the following address:

Cameron Powell
7009 Gillis Drive
Boise, ID 83714-2459

5. On November 27, 2007, the certified mail mailing was returned to the sending office with the notation "unclaimed" by the post office. The envelope containing a copy of the Complaint which was sent to Respondent by regular mail was not returned to the sending office.

6. The Notification of Procedural Rights informed Respondent that, under statutes and rules applicable to such proceedings before the Board, Respondent needed to file a formal Answer to the Complaint within twenty-one (21) days of service of the Complaint and that failure to timely file an Answer to the Complaint or otherwise defend against the action would constitute a default and would be sufficient grounds for proceeding administratively against Respondent's registration without the necessity of conducting a hearing.

7. On ~~December~~ ^{January 17, 2008} 2007, a Notice of Proposed Default Order and Default Order, along with another copy of the Complaint and Notification of Procedural Rights, were sent to Respondent by means of the United States Mail, postage prepaid, both by certified mail, return receipt requested, and by regular mail, at the following address:

Cameron Powell
7009 Gillis Drive
Boise, ID 83714-2459

8. Respondent failed to contest entry of the proposed Default Order within seven (7) days of service of the Notice of Proposed Default Order.

9. Concurrent herewith, a Default Order was entered against Respondent. Therefore, the allegations contained in the Complaint on file in this matter are admitted as true without the necessity of conducting a hearing.

10. As detailed in the incorporated Complaint, Respondent, while a registered contractor, did do the following:

a. In or about September 2006 Respondent contracted with CC to retrofit windows, frame in and install a sliding glass door, and remove a stairway door ("the project"). Before signing the contract, CC informed Respondent that he wanted the metal siding undisturbed, including the j-trim around windows which kept moisture out of the walls. Respondent assured CC that the windows would be installed correctly to ensure that the life-time warranty on the windows would be valid.

b. After Respondent's employees began work on the project, CC subsequently stopped the work because of poor workmanship and damage to his home.

c. On November 27, 2006, a Bureau of Occupational Licenses investigator visited the project and found:

- i. The sliding glass door area was never started.
- ii. The stairway door opening had been opened into the wall board with a hammer.
- iii. The living room window was installed with damage to the interior ledge where the wallboard was broken, the window was damaged, and the seal was compromised.
- iv. The exterior of the window had one shutter that was placed upside down even after CC advised the workers it was upside down.
- v. The masonry around two windows in the basement was damaged.
- vi. Another window in the basement was put in place using a screw, which compromised the seal that went through the frame into the interior.
- vii. Screws were exposed in the siding and the siding was warped on a window edge.
- viii. Caulking was crude and not finished grade.

ix. Removed materials were scattered around the yard and not properly disposed of.

CONCLUSIONS OF LAW

1. As a registered contractor in the State of Idaho, Respondent is subject to the jurisdiction of the Board and to the provisions of title 54, chapter 52, Idaho Code.

2. The Complaint was sent to Respondent at the address on file with the Board, as well as at another address provided by the post office. Respondent was duly and lawfully given notice of proceedings against his registration pursuant to the provisions of IDAPA 04.11.01.055.

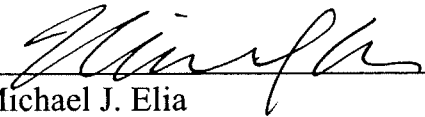
3. Respondent's failure to plead or otherwise defend in this action authorizes the Board, pursuant to Idaho Code § 67-5242(4) and IDAPA 04.11.01.700, to enter an Order of Default which is as lawful as if all the allegations in the Complaint were proved or admitted at a hearing.

4. Respondent's acts as detailed in the incorporated Complaint constitute violations of Idaho Code § 54-5215(2)(h) (contractors shall not fail to meet the generally accepted standard of care in the practice of construction), thereby authorizing the Board to impose sanctions against Respondent.

ORDER

Based upon the foregoing, it is the recommendation of the Hearing Officer that the Board take such action as it deems appropriate consistent with the Findings of Fact and Conclusions of Law stated above.

DATED this 3rd day of March, 2008.



Michael J. Elia
Hearing Officer

NOTICE OF DUE PROCESS RIGHTS

This is a recommended order of the Hearing Officer. It will not become final without action of the Board. Any party may file a petition for reconsideration of this recommended order with the Hearing Officer issuing the order within fourteen (14) days of the service date of this order. The Hearing Officer issuing this recommended order will dispose of any petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Idaho Code § 67-5243(3).

Within twenty-one (21) days after (a) the service date of this recommended order, (b) the service date of a denial of a petition for reconsideration from this recommended order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of this recommended order and file briefs in support of the party's position on any issue in the proceeding.

Written briefs in support of or taking exceptions to the recommended order shall be filed with the Board. Opposing parties shall have twenty-one (21) days to respond. The Board may schedule oral argument in the matter before issuing a final order. The Board will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties and for good cause shown. The Board may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order.

CERTIFICATE OF SERVICE

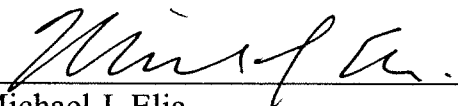
I HEREBY CERTIFY that on this 3rd day of March, 2008, I caused to be served a true and correct copy of the foregoing by the following method to:

Cameron Powell
7009 Gillis Drive
Boise, ID 83714-2459

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Michael S. Gilmore
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail



Michael J. Elia
Hearing Officer